

**RIGHT OF ENTRY ONTO PRIVATE PROPERTY  
AND RIGHT OF USE AGREEMENT**

1. Date and Parties. This Right of Entry and Use Agreement (“Agreement”) is dated June 24, 2003, for reference purposes only, and is between The Wildlands Conservancy (“TWC”) and the County of San Bernardino, by its Department of Public Works, Regional Parks Division (PARKS).
2. Premises. TWC permits PARKS to use Camp Bluff Lake (“Premises”), the real property located at 38200 Bluff Lake Road, Big Bear Lake, County of San Bernardino, State of California, the legal description of which is attached as Exhibit “A” hereto and made a part of hereof. A diagram of the Premises is attached hereto as Exhibit “B” and made a part of hereof.
3. Term. This Agreement shall commence as of 12:00 a.m., July 15, 2003 (“Commencement Date”) and terminate at 12:00 a.m. on a date to be mutually agreed upon by the Parties, but which shall not be later than September 30, 2003 (“Termination Date”). On or before the Termination Date for this Agreement, PARKS shall remove all of PARKS’s personal property from the Premises and shall surrender possession of the Premises to TWC in good order and repair to the satisfaction of TWC, normal wear and tear excepted.
4. Premises Ownership. TWC is currently the owner of the Premises and has authority to enter into this Agreement.
5. Use.
  - A. The Premises shall be used solely for PARKS’s summer camping program for children. All sessions held at the Premises shall be no longer than 5 days, and the total number of children camping shall not exceed the capacity of the Premises, with fewer than 165 campers per session
  - B. Except as otherwise provided herein, the residential structures situated on the Premises may be used as residences for PARKS’s employees or contractors who are engaged in providing related services and permissible activities on the Premises.
  - C. In no event shall PARKS use any portion of the Premises for hunting, trapping or fishing purposes, nor shall PARKS allow such use by others. PARKS shall not cut, mutilate or injure, or permit any of PARKS’s guests or invitees to cut, mutilate or injure any growing trees or shrubbery on the Premises.
  - D. PARKS shall obtain and maintain in good standing and effect all permits, licenses or other authorizations required by any federal, state or local agency with respect to any and every aspect of PARKS’s activities and operations on the Premises, and shall conduct all of its operations and use of the Premises in

accordance therewith and in accordance with all applicable federal, state and local regulations.

- E. PARKS shall comply with all rules and regulations, whether federal, state, county or municipal, relating to the occupancy and use of the Premises and shall take all reasonable precautions to prevent or suppress fires on such property.
6. No Monetary Consideration. The permission granted to PARKS under this Agreement is given to PARKS as an accommodation to PARKS and it shall be without charge to PARKS. PARKS acknowledges the title of TWC to the Premises and agrees never to assail, resist or deny such title. PARKS agrees that its goal shall be that among the children participating in the summer camping programs, 50% of the participants shall be qualified children who attend on scholarships, at no cost to the children or their families. TWC agrees that if PARKS uses its best efforts in good faith, a success rate of 25% or more of the participants on scholarships shall be acceptable to TWC.
7. Construction.
- A. No permanent structure shall be constructed, altered, or expanded, or other improvement made to the Premises by PARKS. This provision shall not apply to the installation of a temporary kitchen facility. The facility will be promptly removed prior to the end of the term of this Agreement.
  - B. During the term of this Agreement, TWC shall have the right of access to, on and over the Premises for the purpose of constructing a permanent kitchen facility, as shown in Exhibit "B" ("New Kitchen"). TWC shall be solely responsible for the condition of the Premises in the location of the new kitchen and for any activity associated with the construction of the new kitchen.
8. Repairs and Maintenance:
- A. Prior to opening the Premises for programs and any occupancy or use by children, PARKS shall verify that the Premises is up to all required health and safety standards. TWC makes no warranties or representations that TWC shall complete repairs, maintenance and cleanup to satisfy the County Health Department, Fire Department, and other local and state agencies' standards, PARKS agrees to accept Premises in "as is" condition.
  - B. At all times during the term hereof, PARKS shall, at its own cost and expense, keep and maintain the Premises and all improvements thereon and all facilities appurtenant thereto, including, but not limited to, all buildings, plumbing, electrical, water supply and delivery systems, roadways, paths, landscaping and irrigation systems, in good order and repair and in a safe condition. Additionally, PARKS shall, at its own cost and expense, keep the whole of the

Premises and any improvements thereon, in a clean, sanitary, orderly and attractive condition. PARKS shall make any and all repairs or alterations to the Premises, the buildings and other related improvements situated on the Premises in conformity with all public laws, ordinances and regulations applicable to the Premises.

9. Waste and Removal of Property. PARKS shall not commit or knowingly allow others to commit any waste upon the Premises. PARKS shall not maintain, commit or permit the maintenance or commission of any nuisance on the Premises. On revocation, surrender, Termination Date or other expiration of the permission granted by this agreement, PARKS shall quietly and peaceably surrender the portion of the Premises occupied by PARKS in as good condition as Premises was at the time of PARK'S entry on Premises and shall remove all fixtures, equipment and other things placed by PARK'S on Premises; and if PARKS shall fail to do so, TWC shall have the right to make such removal at PARK'S expense, the amount of which expense PARKS shall pay to TWC on demand, and, if TWC shall so elect, it shall have the right to take possession of and appropriate to itself without payment therefore any property PARKS, or anyone claiming under Agreement, then remaining on the Premises.
10. Hazardous Materials. PARKS shall not engage in any activity in, on, or about the Premises, which constitute a Reportable Use of a Hazardous Material. "Hazardous Materials" means any chemicals, pollutants, contaminants, wastes, toxic substances, or petroleum products defined in, governed under or regulated pursuant to any applicable federal, state or local laws or regulations relating to pollution, the protection of human health or the environment. Reportable uses means the installation or use of any above or below ground storage tank; the generation, possession, storage, use, transportation or disposal of a Hazardous Material that require a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with any governmental authority.
11. Insurance and Indemnification.
  - A. Insurance. PARKS being a division of San Bernardino County is self-insured with limits of liability up to Ten Million Dollars (\$10,000,000.00). At TWC's request, PARKS will provide a certificate of participation in a self-insurance program.
  - B. Indemnity. PARKS, as a material part of the consideration to be rendered to TWC under this Agreement, waives all claims against TWC for damages to all personal property in or about the Premises, and for injuries to persons in or about the Premises, from any cause arising at any time, except for damages caused by the negligence of TWC. Further, PARKS agrees to hold TWC safe and harmless for and on account of any damage or injury to any person or personal property of any person, arising from (a) PARKS's use of the Premises, or (b) PARKS's failure to keep the Premises and surrounding areas clean and in good condition.

TWC shall not be liable to PARKS for any damage by or from any act or negligence of any other occupant of the Premises or any occupant of any adjoining or contiguous property. PARKS agrees to pay the lesser of cost of repairs or diminution of value for all damages to the Premises, as well as all damage to occupants of the Premises and to the property of those occupants caused by PARKS's misuse or neglect of the Premises.

TWC, as a material part of the consideration to be rendered to PARKS under this Agreement, waives all claims against PARKS for damages to all personal property in or about the Premises, and for injuries to persons in or about the Premises, from any cause arising at any time, except for damages caused by the negligence of PARKS. Further, TWC agrees to hold PARKS safe and harmless for and on account of any damage or injury to any person or personal property of any person, arising from (a) TWC's use of the Premises whether or not allowed by this Agreement, or (b) TWC's failure to keep the Premises and surrounding areas clean and in good condition. PARKS shall not be liable to TWC for any damage by or from any act or negligence of any other occupant of the Premises or any occupant of any adjoining or contiguous property. TWC agrees to pay all damages to the Premises, as well as all damage to occupants of the Premises and to the property of those occupants caused by TWC's misuse or neglect of the Premises.

12. Modification of Agreement. Any modification of this Agreement or additional obligation assembled by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

13. Effect of Partial Invalidity. The invalidity of any portion of this Agreement will not and shall not be deemed to affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

14. General Provisions:

- a. No failure by either TWC or PARKS to insist upon the strict performance by the other of any covenant, condition or restriction of this Agreement or to exercise any right or remedy upon a breach thereof, shall constitute a waiver of any such covenant, condition or provision.
- b. Time is of the essence in this Agreement.
- c. The language in this Agreement shall, in all cases, be simply construed according to its fair meaning and shall not be construed for or against either of the parties.
- d. Neither party shall record this Agreement without the written consent of the other party.

- e. This Agreement may be executed in several counterparts, each of which shall be deemed an original

15. Disputes. If either party brings any action or proceeding in order to enforce or interpret any of the terms or provisions of this Agreement, or to establish any rights or remedy by either party, the prevailing party shall be entitled to recover, as a part of any action or proceeding, its reasonable attorney's fees and court costs.
16. Notices. Any notice or communication required or permitted to be given under this Agreement including notices under the California Unlawful Detainer Statute, shall be given to the respective parties in writing by registered or certified mail, postage prepaid or otherwise personally delivered as follows:

To PARKS:

San Bernardino County  
Department of Public Works,  
Regional Parks Division  
Attn: Tom Potter, Chief  
777 E. Rialto Avenue  
San Bernardino, CA 92415-0763  
(909) 387-2591  
Fax: (909) 785-7076

To TWC:

The Wildlands Conservancy  
Attn: David Myers  
  
9611 Oak Glen Rd., #12  
Yucaipa, CA 92399  
(909) 797-8507  
Fax (909) 797-4337

17. Venue. The parties acknowledge and agree that this Agreement was entered into and intended to be performed in whole or substantial part in San Bernardino County, California. The parties agree that the venue for any action or claim brought by any party to this Agreement will be the Central District of San Bernardino County. Each party hereby waives any law or rule of court, which would allow them to request or demand a change of venue. If any action or claim concerning this Agreement is brought by any third party, the parties agree to use their best efforts to obtain a change of venue to the Central District of San Bernardino County.
18. Applicable Law. This Agreement shall be interpreted and construed according to the laws of the State of California.
19. Jury Trial Waiver. PARKS and TWC hereby waive their respective right to trial by jury and agree to accept trial by judge alone for any cause of action, claim, counterclaim or cross-complaint in any action, proceeding and/or hearing brought by either PARKS against TWC or TWC against PARKS on any matter whatsoever arising out of, or in any way connected with, this Agreement, the relationship of PARKS and TWC, TWC's or PARK's use or occupancy of the Use Area, or any claim of injury or damage, or the enforcement of any remedy under any law, statute, or regulation, emergency or otherwise, now or hereafter in effect.



IN WITNESS WHEREOF, the parties hereto do execute this Agreement as of the effective date hereof.

**TWC:**

\_\_\_\_\_  
**By:** David Myers, Executive Director  
THE WILDLANDS CONSERVANCY  
A California nonprofit public benefit corporation

\_\_\_\_\_  
**Date**

**COUNTY OF SAN BERNARDINO**

\_\_\_\_\_  
**By:** Dennis Hansberger, Chairman, Board of Supervisors

\_\_\_\_\_  
**Date**

SIGNED AND CERTIFIED THAT A COPY  
OF THIS DOCUMENT HAS BEEN DELIVERED  
TO THE CHAIRMAN OF THE BOARD

Clerk of the Board of Supervisors  
Of the County of San Bernardino

\_\_\_\_\_  
**By:** Deputy